JUL 2 1945
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1945.

No. 188

WILLIAM ELBERT LAWRENCE,
Petitioner,

against

THE PEOPLE OF THE STATE OF ILLINOIS.
Respondent.

PETITION FOR WRIT OF CERTIORARI AND BRIEF IN SUPPORT THEREOF.

THOMAS MARSHALL,
3100 Santa Fe Street,
Corpus Christi, Texas,
Counsel for Petitioner.

THE DUNHORN-WARREN PRINTING COMPANY, 310 WEST JACKSON, CHICAGO

INDEX.

	PAGE
Petition	1
Statement	5
Jurisdiction	4
Questions presented	4
Reasons relied on for granting the writ	6
Counsel's signature	9
Brief: The opinion below	10
Jurisdiction, questions presented and statement	5-10-45
Summary	11-20
Point I. Bill of attainder	21
Petitioner claimed immunity in the state court under 14th amendment upon the ground that the Illinois Habitual Act of 1883 (and as amended in 1941) is a bill of attainder, void under Section 10, Article I	
Point 2. The Illinois statute requires and the indictment in this case recites *"in apt words"* the previous conviction of petitioner and this is a violation of the fair play required by due process of law	24
Point 3. The act lays an unequal hand upon those who have committed intrinsically the same quality of crime	25
Point 4. The legislative classification is "arbitrary". Oppressive treatment is provided for crimes "not infamous" and crimes that are "infamous crimes" are excluded from the act	26
Point 5. "Trial by the Record" provided by this act is a separate method of trial. Hence, due process of law is denied to petitioner	27

Point 6.
The act is uncertain, inoperative and void. Words cannot take separate meanings in the same sentence 30

Point 7.
The courts cannot lawfully be made into automatic adjuncts of foreign courts or even of domestic courts 31

Point 8.
The act lacks the first principle of due process of law. It condemns without hearing. Under this act the extreme "full term" penatly is inflicted without any opportunity to petitioner to show that his is not the type of case that merits such harsh treatment 32

Conclusion 32

Counsel's signature 35

Appendices:

A. Illinois Habitual Act (1883) 37
B. Illinois Habitual Act (1941) 38
C. U. S. Constitution—14th Amendment 39
D. U. S. Constitution—Sec. 10 A. I. 39
E. Assault to commit felony statute 39
F. Attempts statute 40
G. Ill. Const. Sec. 2, Art. II 40
H. "Infamous crimes" statute 40
I. Ill. Const. Sec. 5, Art. II 41
J. Common Law statute 41
K. Trials as at Common Law 41
L. Judge McKinlay letter; In re 42
M. Ill. Const. Judges report..... 42
N. Ill. Const. Sec. 9, Art. II 42
O. Letter of Judge McKinlay 43-45
P. Judicial Code of U. S. Sec. 237 45
Q. Robbery statute 46

CASES CITED.

Addison v. People, 193 Ill. 405 26
Blackburn v. State, 50 Ohio St. 428 22
Boettcher v. Howard Engraving Co., 389 Ill. 75, 79 .....8, 18, 32, 33
Brady v. Commonwealth, 4 Ky. 517 30
Buchalter v. People, 319 U. S. 427, 429 .....17, 25
Burt v. United States, 139 F. 2nd 73, 75 23
Carson v. Baldwin, 346 Mo. 984 27
Cross v. State, 96 Fla. 768 22
Cummings v. Missouri, 71 U. S. 277; 4 Wall. 277 .....7, 9, 15, 16, 19, 20, 21, 24
Drehman v. Stifle, 8 Wall. 601; 19 L. Ed. 508 21
Federal Firearm's Act (Tot v. United States) .....
Feldman v. United States, 64 S. Ct. 1082, 1083; 322 U. S. 487 .....18, 24
Fenske Bros. v. Upholster's Local, 358 Ill. 269 28
Fletcher v. Peck, 6 Cranch. 138 21
Formation of the Union, p. 596, House Doc. 398 21
Gaines v. Buford, I Dana (Ky.) 510 21
Ex parte, Garland, 71 U. S. 333, 377; 4 Wall. 333, 337 21
Gilbert, In re Estate of, 311 Ill. App. 28-36 31
Gifford v. People, 87 Ill. 211 26
Goodman v. Kunkle, 72 F. 2nd 334, C. C. A. 22
Groceclose v. Plummer, 116 F. 2nd 311, C. C. A. 23
Gulf Colorado & Santa Fe v. Ellis, 165 U. S. 150, 165 . 27
Harris v. People, 128 Ill. 585 29
Hague v. Committee for Industrial Relations, 307 U. S. 496 14

Hayward v. People, 96 Ill. 492 26
Hebert v. Louisiana, 272 U. S. 312, 316 .....7, 17, 25
Heinemen v. Herman, 385 Ill. 191 30
Hotel, etc. v. Wisconsin Employment Relations Board, 315 U. S. 427, 440; 62 S. Ct. 706 14
Howard v. State, 139 Wis. 529 25
International Harvester Co. v. Missouri, 234 U. S. 199 27
In re Jerry, 294 Mich. 689 23
Johnson v. United States, 318 U. S. 189; 63 S. Ct. 549 24
Johnson-Reverdy and David Dudley Field Brief in Cummings v. Missouri, Test-Oath case, 71 U. S. 277; 4 Wall. 277 .....7, 9, 15,16, 19, 20, 21, 24
Kutwitzky v. O'Grady, 135 Nebraska 466 22
Lansetta v. New Jersey, 306 U. S. 451 .....25, 31
Lawton v. Sweitzer, 354 Ill. 620-625 31
Lisenba v. California, 314 U. S. 219, 236; 62 S. Ct. 280, 290 .....7, 17, 25
Malinski v. New York, 65 S. Ct. 781, 790 (1945) 3, 7, 14, 24, 25
McDonald v. Massachusetts, 180 U. S. 311; 21 S. Ct. 389 .....15, 18, 19, 21, 23
McKevitt v. People, 208 Ill. 467 27
Madden v. Kentucky, 309 U. S. 83 14
Malzenbough v. People, 194 Ill. 108, 112, 113 27
Michigan Millers v. McDonough, 358 Ill. 575 26
Mooney v. Holohan, 294 U. S. 103, 112; 55 S. Ct. 340, 341 25
Moore v. State of Missouri, 159 U. S. 57 21
Moweaqua Coal Corp. v. Ind. Com., 360 Ill. 194-200 ... 31
Morrison v. California, 291 U. S. 82 .....18, 32

Murphy v. State, 50 Ariz. 481 22
Myers v. State, 193 Wis. 213 25
Morris v. Alabama, 294 U. S. 587; 55 S. Ct. 579 ....14, 15
Ogden v. Saunders, 12 Wheat. 266; 6 L. Ed. 606 18
Opinion of Justices, 251 Mass. 569 .....17, 31
Patten v. United States, 281 U. S. 276 30
Ptacek v. Coleman, 364 Ill. 618 28
People v. Atkinson, 376 Ill. 623 .....16, 22, 25
People v. Bain, 358 Ill. 177, 197 30
People v. Carlesi, 154 App. Div. 481, 487 (N. Y.); 233 U. S. 51; 34 S. Ct. 576 22
People v. Dacey, 166 Misc. (N. Y.); 3 N. Y. S. 2nd 156 .....23, 30
People v. Hanke, 389 Ill. 602 .....15, 16, 22, 25
People, ex rel., Prisament v. Brophy, 287 N. Y. 132 .. 23
People v. Henderson, 378 Ill. 436 25
People v. Hughey, 382 Ill. 136, 144 26
People v. Hoffman, 379 Ill. 318, 323 25
People v. King, 276 Ill. 138 26
People v. Kelly, 347 Ill. 221, 229, 238, 249 30-32
People v. Lehner, 326 Ill. 216 27
People v. Livermore, 390 Ill. 85, 96, 97, 102 ..3, 7, 12, 13, 26
People v. Lund, 382 Ill. 213 .....22, 25, 31
People v. Schomig, 74 Cal. App. 109 27
People v. Smith, 296 Mich. 176; 295 N. W. 2nd 605, 607 .....8, 16, 24
People v. Streich, 361 Ill. 490 25
People v. Strong, 363 Ill. 602 25
People v. Williams, 125 Cal. App. 387 22

People v. Wolf, 358 Ill. 334 28
Pierce v. Carskadon, 16 Wall. 234; 21 L. Ed. 276 21
Rains v. Board of Trustees, 365 Ill. 610 28
Rand v. Commonwealth (Va.), 9 Gratt. 738 22
Rex. v. Carlisle, 2 Brad. & A. 362 29
Skinner v. State of Oklahoma, 316 U. S. 535; 62 S. Ct. 1110, 1113 .....3, 7, 8, 9, 11, 12, 17, 18, 19, 24, 25, 32
Slaughter House Cases, 16 Wall. 36; 21 L. Ed. 394 ...7, 14
Smith v. Withrow, 133 Mo. 500 .....
Snowden v. Hughes, 64 S. Ct. 397; 321 U. S. 1..... 14
South Carolina v. United States, 199 U. S. 448 21
Square v. People (Tex.), 167 S. W. 2nd 192 23
State v. Burns, 53 Idaho 418 31
State v. Cassidy, 121 Kan. 331 23
State v. Edelstein, 146 Wash. 245 23
State v. Girod, 106 W. Va. 194 23
State v. Grigori, 318 Mo. 998 27
State v. Holder, 49 Idaho 514 23
State v. Humphries, 350 Mo. 938 .....22, 32
State v. Hudson, 32 La. (1880) 1052 30
State v. Jacques, 171 La. 994 27
State v. Lawson, 22 N. E. 2nd 643; 144 A. L. R. 235 .....8, 17, 22, 24
State v. O'Day, 191 La. 380 .....23, 30
State v. Parris, 89 S. C. 140 28
State v. Smith, 8 Richardson (S. C.) 460, 461 28-30
State v. Smith, 128 Oregon 515 .....16, 25
Stewart v. Brady, 300 Ill. 425 26
Taylor v. Georgia, 315 U. S. 25 32

Tot v. United States, 319 U. S. 463, 466, 470; 63 S. Ct. 1241, 1244, 1246 .....3, 7, 8, 11, 12, 13, 16, 19, 24

West Virginia Board v. Barnette, 318 U. S. 624, 630; 63 S. Ct. 1178, 1181 .....18, 23

Yick Wo. v. Hopkins, 118 U. S. 356, 369; 6 S. Ct. 1064, 1070 26

In re Yung Sing Hee, 36 Fed. 437 22

CONSTITUTIONAL PROVISIONS AND STATUTES CITED.
(These are printed in appendices.)

United States Constitution—Amendment XIV—Appendix C 14, 26, 32, 39

United States Constitution—Sec. 10, Article 1 ....9, 14, 21

United States Statute, Re Jurisdiction, Appendix P...4, 45

Illinois Constitution:

Article II, Section 2. Appendix G 24, 26, 40

Article II, Section 5. Appendix I 27-28, 41

Article VI, Section 31. Appendix M 42

Article II, Section 9. Appendix N 27-42

Illinois Statutes:

Act of 1883 (Original form). Appendix A 21-24, 26, 37

Act of 1883 as amended in 1941. Appendix B 11, 17, 21-24, 26, 38

Re: Assaults to commit felonies. Appendix E 26, 39

Re: Attempts. Appendix F 26, 40

Defining "Infamous crimes". Appendix H 8, 17, 26, 27, 40

Re: Common Law. Appendix J 28, 41

Re: Criminal trials conducted as at common law. Appendix K 28, 41

Re: Robbery. Appendix Q 46

Illinois—McKinlay letter re Habitual Act. Appendix O 43, 44, 45
Illinois—McKinlay letter re Habitual Act. Appendix L 42
House Document 398—Re Bills of Attainder 21

TEXT BOOKS AND COMMON LAW REFERENCES.

2 Chitty, Criminal Law, Star, pages 353-538 ..... 9, 21
2 Chitty, 602 29
Coke Inst. Book III, Ch. VIII, p. 485 29
Coke Inst. Book III, Ch. VI, Star, pages 441, 478 30
Coke on Littleton, 117b 29
Blackstone Com. Ch. 27, Book 4 (Gavit p. 905) 30
Blackstone Com. Ch. 22, Book 3, p. 331 29
Blackstone Com. Ch. 22 (Also edition edited by Gavit, pp. 665, 889, 913) 29
Blickenderfer's Blackstone elements, p. 199 29
Hallem—The Middle Ages—Notes on Chapter VIII, pp. 1032, 1044 (See reprint in "Landmark's of Civilization" D. Appleton & Co. Publishers) 30
Andrews Stephens Pleading, Sec. 86, pp. 171, 189 29
Willison—Stephens on Pleading, p. 90, Star pp. 112, 113 29
Hales Pleas of the Crown, Ch. 33, Vol. 2, p. 258 29
Sutherland, Principles of Criminology, 3rd Ed., p. 531 32
Sutherland, Statutory Construction, p. 336 31
31 Journal Criminal Law, 417, 425 34
80 University of Pennsylvania Law Review, 565, 567 34
New Horizons in Criminology—Barnes & Teeters, p. 100 34
Wharton (1) Crim. Law, 7th ed., Sec. 639 26

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1945.

No. .....

WILLIAM ELBERT LAWRENCE,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

To the Honorable the Chief Justice of the United States and the Associated Justices of the Supreme Court of the United States:

Your petitioner, William Elbert Lawrence, respectfully represents the following:

Summary statement of the matter involved.

Your petitioner was convicted of robbery (while not armed) and of having been heretofore convicted of a felony as charged in the Indictment (Rec. 13-14-28) in count two (2) thereof (Rec. 2-5; 28), and he was adjudged guilty and sentenced to a "full term" of Twenty (20) years confinement in the penitentiary (Rec. 13-14-28) under the terms of the Illinois Habitual Criminal Act. *i.e.*, the

Act of 1883 as amended in 1941. (Appendix B.) Under the terms of the act the court had no discretion to enter any different sentence.

Petitioner claimed immunity (Rec. 7-8-9-10-11-12-13; 22-28) and invoked the protection of the fourteenth amendment to the constitution of the United States in the Criminal Court of Cook County, Illinois, (that being the first opportunity to do so) upon the specific ground that the Act of 1883 and as amended was and is a Bill of Attainder and void under the constitution of the United States. (Rec. 7-13; 22-28.)

The Claim of Immunity (Rec. 7-13; 22-28) and the Motion to quash the Indictment were denied in that court. (Rec. 6; 28.)

Petitioner pressed his claim of immunity and his attack upon the validity of said Act of 1883 (and as amended), by his motion for a New Trial (Rec. 15-16; 29-30); and by his Motion in Arrest of Judgment. (Rec. 17-18; 31.) The Common Law record (Rec. 1-18) and the Bill of Exceptions (Rec. 19-33) set forth the various reasons why the Act of 1883, and as amended, is void as being repugnant to the Constitution of the United States.

The Criminal Court denied immunity (Rec. 6; 28), the motion to Quash (Rec. 6; 28), the Motion for New Trial (Rec. 13; 31), and Motion in Arrest of Judgment (Rec. 14; 31) and thereupon sentenced (Rec. 14-15; 28) petitioner to the "full term", *i.e.*, the maximum, the same being twenty years as fixed by the Act. (Appendices B & Q.) The Supreme Court of the State of Illinois affirmed the lower court and held the Act of 1883 and as amended in 1941 not to be repugnant to the Constitution of the United States and to be valid law. (Opinion, Rec. 40.)

The Writ of Error proceeding terminated in said Supreme Court of Illinois on the 23rd day of May, 1945.

It appears from the opinion of the Illinois Supreme Court (Rec. 40-49) that the validity of the Illinois Habitual Act, (the same being a state statute), was drawn in question as repugnant to the constitution of the United States and that the decision of that court was in favor of its validity. The opinion shows on its face that such questions were actually considered and decided by that court. There was an explicit and timely insistence in the state courts that said Act as applied is repugnant to the federal constitution (1) by said Claim of Immunity, (2) by the Motion to Quash the Indictment, (3) by the Motion of New Trial and (4) by the Motion in Arrest of Judgment and by (5) divers assignments of error in the Supreme Court of Illinois. (Rec. 34-38.)

The decision of the Illinois Supreme Court plainly runs counter to three recent decisions of the United States Supreme Court, *i.e.*, *Tot* v. *United States*, 319 U. S. 463, 466, 470; 63 S. Ct. 1241, 1244-1246; *Skinner* v. *State of Oklahoma*, 316 U. S. 535; 62 S. Ct. 1110, 1113; and *Malinski* v. *New York*, 65 S. St. 781-789, in that the Act and proceedings thereon in this case offend the canons of decency and fairness which express the notions of justice of the English speaking people toward those charged with offenses.

The decision of the Illinois Supreme Court also runs counter to a decision rendered by it on March 21, 1945 in *People* v. *Livermore*, 390 Illinois Reports, p. 85 (96-102) in that it "blackens the character of the defendant before starting on an investigation of the crime with which he is charged." The statute and the Indictment at bar do that very thing.

Questions Presented.

1. Is the Illinois Habitual Act a Bill of Attainder and void under the United States Constitution? Was immunity under the 14th Amendment unlawfully denied?

2. Where the Indictment must, under the Act, set forth the previous conviction is this requirement and the recital in the indictment a violation of the fair play required by due process of law under the 14th Amendment to the United States constitution?

3. Does the Act deny to petitioner the first principle of due process of law? Is there condemnation without hearing upon the vital question as to whether petitioner is the type that merits harsh treatment under the Act?

4. Does the Act lay unequal hands upon those who have committed intrinsically the same quality of crime?

5. Is the legislative classification of the Act "arbitrary" and is "oppressive treatment" provided for crimes that are not "infamous crimes", while crimes that are "infamous crimes" are not so treated? Hence, is such an Act void?

6. Does the Act make the courts of Illinois mere automatic adjuncts of foreign and domestic courts?

7. Has petitioner been denied due process of law and sentenced under a void Bill of Pains and Penalties?

8. Is the Act in its operation a denial of due process of law in that all alike are sentenced under the Act to the extreme penalty of the "full term" without exception of any kind and without any hearing other than identity?

Grounds Upon Which the Jurisdiction of This Court Is Invoked.

It is respectfully submitted that this court has jurisdiction of this petition for certiorari under Section 237 (b) of the Judicial Code as amended by the Act of February 13, 1925, c. 229, Section 1 (43 Stat. 937); 28 U. S. C. A. Section 344 (b), (Appendix P), such petition being one to review the final judgment of the Supreme Court of the State of Illinois, the highest court of that state in which a decision could be had, which judgment was rendered on the 23rd day of May, 1945. (Rec. 40-49; 50.) The validity of a statute of Illinois is drawn in question on the ground of its being repugnant to the Constitution of the United States and, also, a right, privilege and immunity was specially set up and claimed by Petitioner under the Constitution of the United States and same was denied.

The judgment of the Supreme Court of the state of Illinois was an affirmation of the conviction and imprisonment in the penitentiary for the "full term" of twenty years. In both state court Petitioner set up and claimed the right, privilege and immunity against deprivation of liberty and trial and sentence under a Bill of Attainder and this and other points were raised and considered and federal questions were necessarily decided by the Illinois Supreme Court. (R. 40-49.)

The Claim for Immunity was specially presented in the lower court and in the Supreme Court of the state by a special claim of Immunity, by Motion to Quash Indictment, by Motion for New Trial and by Motion in Arrest of Judgment. Also, the same questions were raised upon Assignment of Errors in the State Supreme Court (Rec. 34-38) and by the Brief of Petitioner in said Supreme Court and in each of said claims, motions and assignments of error

the validity of the statute was drawn in question as being repugnant to the United States Constitution, *i.e.*: "No state shall pass any Bill of Attainder law." At all times and in each court Petitioner has contended that the Act of 1883 and as amended in 1941, *i.e.*, the Habitual Criminal Act, is void as being a Bill of Attainder and that the Indictment, trial and sentence under said Act abridges the privileges, rights and immunities of Petitioner and denies to him immunity, freedom and safety from deprivation upon a previous conviction and denies to him immunity from trial, sentence and imprisonment under a Bill of Attainder law and he here now again repeats his Claim for Immunity in that regard and invokes the protection of the Fourteenth Amendment to the Constitution of the United States.

Reasons Relied Upon for the Allowance of the Writ.

The Supreme Court of the State of Illinois has decided a federal question of substance not heretofore determined by this Court and other federal questions of substance in a way probably not in accord with applicable decisions of this court. The Illinois Supreme Court has affirmed a judgment and sentence that is based upon a statute that is, as petitioner contends, void as being repugnant to the constitution of the United States and in proceedings in which petitioners claims of immunity under the United States Constitution, *i. e.*, under the 14th amendment thereof, were denied to petitioner by the State of Illinois. Petitioner was thus deprived of liberty without due process of law and denied the equal protection of the laws in violation of the 14th amendment to the constitution of the United States and in violation of the provision of the

United States Constitution, *i. e.*: "No state shall pass any Bill of Attainder law."

Skinner v. *State of Oklahoma*, 316 U. S. 535, 541; 62 S. Ct. 1110, 1113.

Tot v. *United States*, 319 U. S. 463, 466-470; 63 S. Ct. 1241, 1244, 1246.

Malinski v. *New York*, 65 S. Ct. 781, 787, 789.

Lisenba v. *California*, 314 U. S. 219, 236, 237.

Slaughter House Cases, 16 Wall. 36, 77-78.

Cummings v. *Missouri*, 71 U. S. 277; 4 Wall. 277; 18 L. Ed. 356.

The Illinois Habitual Act is based upon the theory of punishment "for the new crime alone" whereas, the Missouri constitution based on that theory was held to be a Bill of Attainder in *Cummings* v. *Missouri*, and void. See opinion. (Rec. 40-49.)

Constitutional safeguards "like the freedom of the press or the free exercise of religion or *freedom from condemnation without a fair trial*, express rights the denial of which is repugnant to the conscience of a free people". "They express 'those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions' " (*Hebert* v. *Louisiana*, 272 U. S. 312, 316; 47 S. Ct. 103, 104; 71 L. Ed. 270; 48 A. L. R. 1102), and are implied in the comprehensive concept of "due process of law". *Malinski* v. *New York*, 65 S. Ct. 781, 788.

The recital in the Indictment of a prior conviction as required by the act burdens the trial with the record of the previous conviction. Allegation in the Indictment of a previous conviction and proof thereof absolutely prevent a fair and impartial trial of the main offense being then tried by the court. No fair and impartial trial can be had under such conditions. Such a condition cannot be cured by instructions to a jury. *People* v. *Livermore*, 390 Ill.

85, 96-102. (Opinion filed March 21, 1945.) The requirement embodied in the Illinois Habitual Act necessarily make a fair and impartial trial impossible.

The act requires and the Indictment in the case at bar recites "in apt words" the prior conviction of petitioner and this requirement and recital is a violation of the fair play required by due process of law under the 14th amendment to the United States Constitution. *People* v. *Smith*, 296 Mich. 176, 295 N. W. 605, 607; *Tot* v. *United States*, 319 U. S. 463, 466, 470, 63 S. Ct. 1241, 1244, 1246; Remarks of Justice Fox, *State* v. *Lawson*, 22 S. E. 2nd 643-646 (W. Va.).

The Act lays unequal hands upon those who have committed intrinsically the same quality of crime and is therefore void. *Skinner* v. *State of Oklahoma*, 316 U. S. 535, 541; 62 S. Ct. 1110, 1113. The Illinois situation is like the Oklahoma situation in that larceny is within the Act, whereas, embezzlement, assaults to commit felonies, attempts and other acts are "forever free".

The Act is in operation and effect the wholesale condemnation of an entire class to serious invasion of personal liberty without any opportunity to any individual to show that his case is not the type of case which justifies the resort to harsh measures. *Skinner* v. *State of Oklahoma*, 316 U. S. 525, 62 S. Ct. 1110, 1115; *Boettcher* v. *Howard Engraving Co.*, 389 Ill. 75-79 (decided January, 1945).

The legislative classification of the Act is "arbitrary" and it provides oppressive treatment for crimes that are not "infamous crimes" whereas, it does not provide such harsh treatment for crimes that are "infamous crimes". Hence, the Act is void. *Skinner* v. *State of Oklahoma*, 316 U. S. 535, 62 S. Ct. 1110, 1113; Illinois statute re "Infamous Crimes", Appendix H.

The record in this case is in all respects like the record in attainder set forth in 4 Chitty Criminal Law, Star pages 353 and 538 and, under the Act of 1883 and as amended in 1941, petitioner was allowed only the one defense, *i. e.*, "identity" which is the only defense that existed under the English tyrannical bills of pains and penalties, *i. e.*, under bills of attainder. The Act being a bill of attainder is void under the provisions of the United States Constitution. *Slaughter House cases,* 16 Wall. 36, 77, 78, 21 L. Ed. 394, 409; Section 10, Article I, U. S. Constitution; *Cummings* v. *Missouri,* 71 U. S. 277, 18 L. Ed. 356, 4 Wall. 277.

> "The question is not as to the existence of the power of the state over matters of internal police but whether that power has been made in the present case an instrument for the infliction of punishment against the inhibition of the Constitution."
>
> *Cummings* v. *Missouri,* 71 U. S. 277, 18 L. Ed. 356, 4 Wall. 277.

Wherefore, Petitioner, William Elbert Lawrence prays that a Writ of Certiorari may issue out of and under the seal of this court directed to the Supreme Court of the State of Illinois commanding said court to certify and send to this court for review and determination, as provided by law, this cause and a complete transcript of the record and of all proceedings had therein; and that the order of the Supreme Court of the State of Illinois affirming the judgment in this cause may be reversed and that the Petitioner, William Elbert Lawrence may have such other and further relief in the premises as this court may deem proper.

Dated, June 25, 1945.

WILLIAM ELBERT LAWRENCE,
Petitioner.

THOMAS MARSHALL,
Counsel for Petitioner.